Arb.P. 5/2005
BEFORE
THE HON'BLE MR JUSTICE D. BISWAS,
CHIEF JUSTICE(ACTG.)

Heard Mr Saha, learned counsel for the petitioner and also Mr R. Sarma, learned counsel for the respondents.

2. During the course of argument, Mr Saha submitted that the respondent authority failed to act in terms of the agreement and appoint an Arbitrator in response to the notice issued by the petitioner on 14.2.05. The reply to the notice was issued by the authority concerned on 15.5.05 but till then no appointment was made. In the meantime, the present proceedings was initiated and only thereafter, the respondent authority vide letter dated 3.6.05 informed that Sri Anil Kumar, Chief Engineer, Project Setuk has been appointed as the sole Arbitrator. Mr Saha further submitted that the right of the respondent authority to appoint departmental arbitrator flows from the contract. Since the respondent authority failed to appoint the arbitrator within the stipulated period, it cannot later on enforce its rights of appointment. Mr Saha, learned counsel argued that it is now for the court to appoint a suitable arbitrator. Mr Saha further suggested that they would accept any retired Judge of the High Court as the sole arbitrator in place of Sri Anil Kumar who is an officer serving under the respondent authority.

3. Mr Sarma, learned counsel for the respondent submitted that he has no objection if any retired Judge is appointed to arbitrate into the matter.

4. In view of aforesaid submission and as agreed to by the learned counsel for the parties, Justice P.G.Agarwal, retired Judge of this Court is appointed as the sole Arbitrator.

5. The parties shall take necessary follow up action in terms of the above order.

6. The petition accordingly stands disposed of.